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HOUSE BILL 666

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Daniel P. Silva

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR AND PERMITTING THE ELECTION OF ALTERNATIVE METHODS OF VALUATION OF PROPERTY USED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC POWER OR ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-36-29 NMSA 1978 (being Laws 1975, Chapter 165, Section 10) is amended to read:

"7-36-29. SPECIAL METHOD OF VALUATION--PROPERTY USED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ~~[ELECTRICAL]~~ ELECTRIC POWER OR ENERGY.--

A. All property used for the generation, transmission or distribution of ~~[electrical]~~ electric power or energy subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this

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1 section.

2 B. As used in this section:

3 [~~(3)~~] (1) "construction work in progress"
4 means the total of the balances of work orders for an electric
5 plant in process of construction on the last day of the
6 preceding calendar year exclusive of land, land rights and
7 licensed vehicles;

8 [~~(1)~~] (2) "depreciation" means straight line
9 depreciation over the useful life of the item of property;

10 (3) "economic obsolescence" means, with
11 respect to valuation for property taxation purposes, the loss
12 in value caused by unfavorable economic influences or factors
13 outside of the property; "economic obsolescence" is the loss in
14 value in addition to a loss in value attributable to physical
15 depreciation;

16 [~~(2)~~] (4) "electric plant" means all property
17 situated in this state used or useful for the generation,
18 transmission or distribution of electric power or energy, but
19 does not include land, land rights, general buildings and
20 improvements, construction work in progress, materials and
21 supplies and licensed vehicles;

22 (5) "functional obsolescence" means, with
23 respect to valuation for property taxation purposes, the loss
24 in value caused by functional inadequacies or deficiencies
25 caused by factors within the property; "functional

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1 obsolescence" is the loss in value in addition to a loss in
2 value attributable to physical depreciation;

3 [~~(4)~~] (6) "general buildings and improvements"
4 means buildings of the nature of offices, residential housing,
5 warehouses, shops and associated improvements in general use by
6 the taxpayer and not directly associated with generation,
7 transmission or distribution of [~~electrical~~] electric power or
8 energy;

9 [~~(5)~~] (7) "materials and supplies" means the
10 cost, including sales, use and excise taxes, and transportation
11 costs to point of delivery in this state, less purchases and
12 trade discounts, of all unapplied material and supplies on hand
13 in this state as of December 31 of the preceding calendar year;

14 [~~(6)~~] (8) "other justifiable factors"
15 includes, but is not limited to, functional obsolescence and
16 economic obsolescence, such as the limitation upon the use of
17 the property based upon the available reserves committed to the
18 property; and

19 [~~(7)~~] (9) "tangible property cost" means the
20 actual cost of acquisition or construction of property,
21 including additions, retirements, adjustments and transfers,
22 but without deduction of related accumulated provision for
23 depreciation, amortization or other purposes.

24 C. Each taxpayer having property subject to
25 valuation pursuant to this section shall elect to have that

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1 property valued by the department in accordance with either
2 Subsection D or H of this section. The election shall be
3 effective for subsequent property tax years unless prior
4 permission of the secretary is obtained to change the election
5 for good cause shown. A taxpayer shall not seek permission to
6 change an election unless the prior election has been effective
7 for at least three consecutive property tax years. The
8 secretary shall find that good cause exists to change the
9 election upon a showing satisfactory to the secretary by the
10 taxpayer that:

11 (1) the net result of all amendments to the
12 property tax statutes and rules with effective dates commencing
13 within the property tax year has a substantial adverse effect
14 on the valuation for property tax purposes under the
15 alternative elected for the property for that year relative to
16 what the valuation for property tax purposes would have been
17 under the other alternative in the absence of the amendments;

18 (2) the net result of all changes in law or
19 circumstances, but excluding acquisition or sale of property
20 subject to valuation pursuant to this section, including
21 changes that do not affect property tax liability, occurring
22 within the property tax year has a substantial adverse effect
23 on the valuation for property tax purposes under the
24 alternative elected for the property for that year relative to
25 what the valuation for property tax purposes for the property

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1 would have been under the other alternative in absence of the
2 changes; and

3 (3) changes in property tax statutes or
4 regulations that are effective prior to the property tax year
5 have a substantial adverse effect on the valuation for property
6 tax purposes under the alternative elected for the property
7 relative to what the valuation for property tax purposes would
8 have been under the other alternative.

9 ~~[G.]~~ D. An electric plant valued under this
10 subsection shall be valued as follows:

11 (1) the department shall determine the
12 tangible property cost of the electric plant;

13 (2) such tangible property cost shall then be
14 reduced by the related accumulated provision for depreciation
15 and any other justifiable factors; and

16 (3) notwithstanding the foregoing
17 determination of value for property taxation purposes, the
18 value for property taxation purposes of an electric plant shall
19 not be less than twenty percent of the tangible property cost
20 of the electric plant.

21 ~~[D.]~~ E. The value of construction work in progress
22 shall be fifty percent of the amount expended and entered upon
23 the accounting records of the taxpayer as of December 31 of the
24 preceding calendar year as construction work in progress.

25 ~~[E.]~~ F. The value of materials and supplies shall

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1 be the tangible property cost for [~~such~~] the property as of
2 December 31 of the preceding calendar year.

3 [~~F-~~] G. Each item of property having a taxable
4 situs in the state and valued under this section shall have its
5 net taxable value allocated to the governmental units in which
6 the property is located.

7 H. An electric plant valued under this subsection
8 shall be valued applying the unit rule of appraisal using the
9 following components, as appropriate:

- 10 (1) capitalization of earnings;
11 (2) market value of stock and debt; and
12 (3) cost less depreciation, economic
13 obsolescence and functional obsolescence.

14 I. A claim for the deduction of economic
15 obsolescence or functional obsolescence pursuant to this
16 section shall contain a requested obsolescence factor along
17 with a brief statement of the facts upon which the claim is
18 made, together with documentation to support the claim.

19 J. If a taxpayer has not established a claim for
20 economic obsolescence or functional obsolescence in accordance
21 with rules adopted by the department, the department shall
22 notify the taxpayer in writing of the reasons for its
23 determination and specify the information that the department
24 requires for a claim for economic obsolescence or functional
25 obsolescence. The department shall provide that notice in

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1 sufficient time to permit the taxpayer to establish a claim for
2 economic obsolescence or functional obsolescence in accordance
3 with department rules before the department issues a valuation
4 notice to the taxpayer.

5 [~~G.~~] K. The department shall adopt [~~regulations~~
6 ~~under Section 72-31-88 NMSA 1953]~~ rules to implement the
7 provisions of this section."

8 Section 2. APPLICABILITY.--The provisions of this act
9 apply to the 2007 and subsequent property tax years.

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